

## APPENDIX 3: LEGAL FRAMEWORK

The Bureau of Land Management operates under a number of federal and state laws and regulations. The following is a brief listing of the major laws that affect BLM's management of public lands.

Some of these laws are specifically referenced within the EIS, some are not. Decisions within the EIS will not affect BLM's responsibility to adhere to and/or enforce these laws.

### FEDERAL LAWS

**National Environmental Policy Act (NEPA):** NEPA requires all federal agencies to analyze the environmental impacts of any proposed action affecting public lands or resources, to involve the public in decision making, and to disclose environmental impacts to the public. NEPA also requires that the analysis be interdisciplinary and issue driven and that the cumulative and indirect effects be reported. An EIS is required for any major federal action significantly affecting the quality of the human environment.

**Taylor Grazing Act (TGA):** With amendments, this act is the basic legislative authority governing grazing use on the vacant public lands of the United States.

**Federal Land Policy and Management Act (FLPMA):** This law established public land policy providing for the retention and management of the public lands held in Federal ownership, including special provisions for land use planning and range management.

**Public Rangelands Improvement Act (PRIA):** This legislation of 1978 further supports the authority of the Taylor Grazing Act and the Federal Land Policy and Management Act by placing special emphasis for the improvement of rangeland conditions.

**Wild Free-Roaming Horse and Burro Act:** This act provides for the protection, management, and control of wild horses and burros on public lands administered by the BLM and the U.S. Forest Service. The basic goal is to keep the wild horse herds from disappearing, yet keep the herds at appropriate management levels to maintain a healthy functioning ecosystem. The act allows removal of animals if necessary to "restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation."

**Endangered Species Act (ESA):** This act requires the federal land management agencies to protect and enhance all species and their habitats on federal lands that are listed as endangered, threatened, or proposed for listing. Included in this act in Section 7 is a required process for all federal agencies to consult with the U.S. Fish and Wildlife Service regarding any federal action that may affect a federally listed threatened or endangered species.

**Clean Water Act (CWA):** This law's objective, administered by the U.S. Environmental Protection Agency (EPA), is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. It directs the federal agencies to comply with water quality standards, including initiating actions to control non-point sources of pollution such as grazing, as determined by each respective State government and as approved by EPA.

**Coastal Zone Act Re-authorization (CZARA):** This act is applicable to all waters in California and, as amended in 1990, places additional requirements on the states to address non-point source pollution in several categories, including rangeland. The federal agencies, such as the Bureau of Land Management are to cooperate with the state in fulfilling these requirements.

**Federal Noxious Weed Act:** This 1974 act, as amended in 1990 (Section 15 of the act), adds further responsibility for the federal land management agencies, in cooperation with the respective state agencies, to actively pursue the control of undesirable plants using an integrated management approach.

**Carson-Foley Act (43 USC 1241) of 1968:** This law provides for the control of noxious plants on land under the control and jurisdiction of the Federal Government by permitting the appropriate state agency to enter such lands to destroy noxious plants.

**Antiquities Act of 1906 and amendments:** This act provides for the protection of historic and prehistoric sites and objects of antiquity on Federal lands; and authorizes scientific investigation of such sites and antiquities, subject to permits and other regulatory requirements. Paleontological resources are also covered by this act.

**American Indian Religious Freedom Act:** This 1978 act makes it a policy of the government to protect and preserve for Native Americans their inherent rights of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiian. These rights include, but are not limited to, use of sites and access to those sites, use and possession of sacred objects, and the freedom to worship through ceremony and traditional rites.

**Executive Order 13007:** This executive order affirms that Native Americans have the right to access specific spiritual and sacred sites on federal lands as long as that access is not inconsistent with the administrative goals of the agency.

**Archeological Resources Protection Act:** This act prohibits the removal, sale, receipt, and interstate transportation of archeological resources obtained illegally (without permits) from public or Indian lands and authorizes agency permit procedures for investigations of archeological resources on public lands under the agency's control. Amendments state that the Secretaries of the Interior, Agriculture and Defense shall develop plans for surveying the lands under their control to determine the nature and extent of archeological resources, prepare a schedule for surveying those lands that are likely to contain the most scientifically valuable archeological resources, and develop documents for reporting suspected violations. Tribes are given 30 days to comment on permits for the excavation of archeological resources within their "aboriginal territory."

**National Historic Preservation Act of 1966 (NHPA):** This act established historic preservation as a national policy and defines it as the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. Significance is determined by specific criteria. The National Register of Historic Places is maintained by the National Park Service.

**Native American Graves Protection Act of 1990 (NAGPRA):** This act requires federal agencies and federally sponsored museums to establish procedures for identifying Native American groups associated with cultural items on federal lands, to inventory human remains and associated funerary objects in federal possession, and to repatriate (return) such items upon request to affiliated groups. It also requires that any discovery of cultural items covered by the act shall be reported to the head of the federal agency, who shall notify the appropriate Native American tribe or community/organization.

**Executive Order of April 29, 1994:** This executive order established that it is the policy of the United States that formal government to government relationships shall be established between agency heads and all formally recognized tribes. This policy provides the impetus for developing protocols and memoranda of understanding between the BLM and the federally recognized tribes. BLM has also applied the policy to unrecognized Indian communities.

#### STATE LAWS (California and Nevada)

**Porter-Cologne Water Quality Control Act:** This act establishes a comprehensive water quality program for the state of California, through the State Water Resources Control Board, including a non-point source program on rangelands. This act also gives authority to nine semi-autonomous Regional Water Quality Control Boards within the state.

**Nevada Revised Statutes (NRS) Chapter 445:** This chapter authorizes the Nevada Department of Environmental Protection to serve as the designated agency in Nevada to implement the Clean Water Act and to develop comprehensive plans and programs for preventing, reducing, or eliminating pollution, including those from non-point sources on rangelands.

**California Food and Agriculture Code, Section 403 and Title 3, California Code of Regulations, Section 4500:** These codes provide the responsibilities and priorities governing the California Department of Food and Agriculture to protect the agricultural industry of the state by controlling weeds on all lands, including federally owned rangelands.

**California Endangered Species Act:** This act is administered by the California Department of Fish and Game and is patterned after the federal Endangered Species Act, by providing a state listing and protection responsibilities for species determined to be specifically protected within California.

**California Native Plant Protection Act:** This 1977 act provided for the California Department of Fish and Game to "preserve, protect, and enhance endangered plants in California".